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SECURITY COUNCIL COMMITTEE ESTABLISHED
BY RESOLUTION 661 (1990) CONCERNING
THE SITUATION BETWEEN IRAQ AND KUWAIT

NOTE VERBALE DATED 14 JANUARY 1991 FROM THE PERMANENT REPRESENTATIVE OF TUNISIA TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

The Permanent Representative of Tunisia to the United Nations presents his compliments to the Secretary-General and, with reference to his note SCPC/7/90 (3-1) of 2 November 1990, has the honour to transmit to him the reply of the Tunisian Government to the questionnaire concerning national measures to implement Security Council resolution 661 (1990).

READEX
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Annex

Reply of Tunisia to the questionnaire concerning national measures to implement Security Council resolution 661 (1990)

1. Legislative framework

Security Council resolution 661 (1990) was adopted in accordance with the Charter of the United Nations, the provisions of which, by virtue of its ratification under article 32 of the Tunisian Constitution, take priority over those of Tunisian legislation.

Accordingly, the Tunisian legislative system provides for the implementation of this resolution without any need for special legislation. Administrative measures are sufficient to ensure the effective application of resolution 661 (1990), and Tunisia did not hesitate to take the measures required in order to meet its obligations without having to adopt special legislation.

The embargo against South Africa and Israel never required the adoption of special legislation in Tunisia either.

The aforementioned administrative measures take the form of circulars, directives or instructions (cf. the copy of instructions from the Central Bank enclosed herewith by way of example).

2 and 3. Control of imports and exports and of activities calculated to promote imports and exports from or to Iraq or Kuwait

Tunisia applies a system of controls to trade with other countries.

Every import or export transaction is subject to administrative controls by the Ministry of Economy and Finance (customs, trade, etc.) and by the Central Bank of Tunisia.

This general control of import-export or exchange transactions is provided for under current legislation, including the customs code and regulations governing exchange and foreign trade.

For this purpose, the Customs Department issued an instruction dated 16 August 1990 suspending all transactions involving the importation or exportation of goods from or to Iraq and Kuwait. The Tunisian government agency which insures foreign trade (COTUNACE), in its turn, suspended coverage of transactions involving those two countries. Finally, the Central Bank of Tunisia gave instructions to its authorized agents to suspend the opening of letters of credit or any other financial arrangement for transactions with Iraq and Kuwait.

4. Control of economic and financial resources

(a) As noted above, any exchange or foreign trade transaction is subject to control in accordance with current Tunisian legislation. Implementation of the embargo is provided for under current laws and regulations.

(b) Immediately the embargo was imposed, the Central Bank of Tunisia addressed instructions to all banks to suspend letters of credit to and from Iraq and Kuwait. The Central Bank also ordered that Iraqi and Kuwaiti assets should be frozen. The decision to freeze Kuwaiti assets was, however, taken only for the purposes of their protection, and repeated assurances to this effect have been given to the representatives of Kuwaiti interests in Tunisia. Accordingly, any request by the duly authorized representatives of the Government of Kuwait for such assets to be made available has been met.

5. Enforcement

The regulations governing exchange and foreign trade and the customs code provide for enforcement measures (fines, sequestration, confiscation, etc.) in respect of any contravention or attempt to contravene the administrative decisions taken in general or more particular connection with the implementation of Security Council resolution 661 (1990).

It should be noted that, since there has as yet been no breach of the embargo, the Tunisian authorities have not had to resort to such enforcement measures.

6. Other

(a) The full implementation of resolution 661 (1990) has not given rise to any real internal legislative problems. However, Tunisia has suffered real and substantial losses in economic, financial and social terms as a result of the implementation of resolution 661 (1990). These losses were described in a memorandum addressed to the Security Council, which received favourable consideration from the Committee established by the Security Council resolution concerned.

(b) Contracts concluded with Iraq and licences and permits granted in the context of trade between the two countries have been frozen as a result of the embargo and the obligation to comply therewith.

(c) In accordance with paragraph 9 (a) of Security Council resolution 661 (1990), the assets of the Government of Kuwait and its agents have enjoyed full protection, as noted above.

Enclosure

CENTRAL BANK OF TUNISIA

THE GOVERNOR

Tunis, 17 September 1990

I have the honour hereby to confirm the previous instructions of the Central Bank of Tunisia concerning compliance with United Nations Security Council resolution 661, a copy of which is enclosed.

It should be recalled in particular that, under this resolution, all transactions involving the transfer of funds or the opening of letters of credit for Iraq and Kuwait are to be suspended.